UNITED
NATIONS

E

Economic and Social
Council

Distr.
GENERAL

E/CN.4/1991/SR.17
22 March 1991

ENGLISH
Original: FRENCH

COMMISSION ON HUMAN RIGHTS

Forty-seventh session

SUMMARY RECORD OF THE 17th MEETING

Held at the Palais des Nations, Geneva,
on Friday, 8 February 1991, at 10 a.m.

Chairman: Mr. BERNALES BALLESTEROS (Peru)

later: Mr. AMOO-GOTTFRIED (Ghana)

CONTENTS

Statement by Mr. Stoltenberg, Minister for Foreign Affairs of Norway

Violations of human rights in southern Africa: report of the Ad Hoc Working Group of Experts (continued)

The adverse consequences for the enjoyment of human rights of political, military, economic and other forms of assistance given to the colonial and racist régime in southern Africa (continued)

This record is subject to correction.

Corrections should be submitted in one of the working languages. They should be set forth in a memorandum and also incorporated in a copy of the record. They should be sent within one week of the date of this document to the Official Records Editing Section, room E.4108, Palais des Nations, Geneva.

Any corrections to the records of the public meetings of the Commission at this session will be consolidated in a single corrigendum, to be issued shortly after the end of the session.

GE.91-10523/3022B

CONTENTS (continued)

Implementation of the International Convention on the Suppression and Punishment of the Crime of Apartheid (continued)

Implementation of the Programme of Action for the Second Decade to Combat Racism and Racial Discrimination (continued)

Question of the realization in all countries of the economic, social and cultural rights contained in the Universal Declaration of Human Rights and in the International Covenant on Economic, Social and Cultural Rights, and study of special problems which the developing countries face in their efforts to achieve these human rights, including:

(a) Problems related to the right to enjoy an adequate standard of living; foreign debt, economic adjustment policies and their effects on the full enjoyment of human rights and, in particular, on the implementation of the Declaration on the Right to Development;

(b) Popular participation in its various forms as an important factor in development and in the full realization of all human rights;

Question of the realization of the right to development

Status of the International Covenants on Human Rights

Effective functioning of bodies established pursuant to United Nations human rights instruments

The meeting was called to order at 10.55 a.m.

STATEMENT BY MR. STOLTENBERG, MINISTER FOR FOREIGN AFFAIRS OF NORWAY

1. The CHAIRMAN, introducing Mr. Stoltenberg, said that his training had given him a good knowledge of international law and international relations, and that he had many years of diplomatic experience. He had been the Permanent Representative of Norway to the United Nations and the United Nations High Commissioner for Refugees. In his country, he had held the posts of Secretary of State for Trade and Minister of Defence. He was currently contributing, as Minister for Foreign Affairs of Norway, to the international community's efforts to achieve peace, development and the promotion of human rights.

2. Mr. STOLTENBERG (Minister for Foreign Affairs of Norway) said that the hopes aroused less than three months earlier by the end of the cold war, which had augured a bright future for Europe, had been shattered by the deployment of military force against the democratically elected Governments and the citizens of Lithuania and Latvia. Those actions were seen as clear-cut violations of the commitments undertaken by the Soviet Union within the Conference on Security and Co-operation in Europe (CSCE), and they also ran counter to the basic principles embodied in the instruments solemnly adopted by the United Nations. While the task of the Soviet leaders, who had to face problems of ethnic unrest and a critical economic situation, was not an easy one - and the European countries had offered to help them solve those problems - nothing could justify the use of violence against unarmed civilians or the attempts which had been made to stifle the free flow of information through military intervention. The conflict between the Baltic States and the Soviet authorities must be settled peacefully through negotiations in a manner consistent with the legitimate rights and aspirations of the Baltic peoples. Two Norwegian legal experts, Mr. Opsahl and Mr. Eide, who were well known to the members of the Commission, had visited the Baltic States from 22 to 27 January in order to examine the situation at first hand. They had concluded that the measures adopted in Lithuania and Latvia by the Soviet armed forces and the special forces under the Minister of the Interior had been in clear conflict with the obligations undertaken by the Soviet Union under the International Covenant on Civil and Political Rights and the Code of Conduct for Law Enforcement Officials. As to the allegations of discrimination against Russian and other ethnic minorities in the Baltic countries, the experts believed that they had more to do with the uncertainty of the future than with the current situation. It was incumbent upon the Commission to examine that issue as well.

3. In the Gulf region, peace could be restored only if Iraq withdrew from Kuwait. The Iraqi attacks on civilian populations, the deliberate spilling of oil into the sea and the threats of chemical and biological warfare were terrorist acts against man and nature. Norway also found it alarming to learn of the concentration of prisoners of war near military bases and targets. Such actions were contrary to international law and humanitarian principles. He urged Iraq rigorously to respect all the Geneva Conventions and to recognize and respect the special status of the International Committee of the Red Cross.

4. The world was currently confronted by problems which the international community must approach with greater vigour if it was not to relinquish all hope for democracy and human rights worldwide. That was not an easy task; it principally required the political will on the part of all Governments to implement the international standards already laid down and to take human rights into account in their political as well as economic relations with other countries. Over the years, the Commission had helped to bring about a clearer understanding of the role of human rights in international affairs, and had established the basic principle of the universality of United Nations standards in the field of human rights. Furthermore, it had recognized the close relationship between development and human rights, on the one hand, and between civil and political rights and economic, social and cultural rights, on the other, for although underdevelopment and the lack of resources might impede the realization of human rights, it was also undeniable that the failure to observe basic human rights principles in itself impeded development. Human rights and the principle of free and meaningful participation for all in political, social, economic and cultural development must be made an integral part of the development process and be incorporated into the broad range of United Nations development programmes. A human rights impact statement in connection with development co-operation activities, as suggested by the Committee on Economic, Social and Cultural Rights, would be a step in that direction.

5. The promotion of human rights in general was a major objective of Norwegian development assistance. After the overthrow of repressive régimes, some countries often faced economic instability and problems relating to poverty and unemployment, and they needed outside support more than others in order to avoid new political setbacks. His country had set up a special fund for that purpose.

6. Within the United Nations human rights programme, there should be an increasing emphasis on advisory services, technical assistance and training with a view to ensuring the implementation of the universal principles. The means necessary for those efforts should be provided to the Centre for Human Rights to enable it to play an innovative and catalytic role within the United Nations system in establishing closer links between development and human rights questions. Consideration should also be given to strengthening the links between the international mechanisms and procedures and efforts at the national level to promote human rights. In that regard, the efforts already undertaken by a number of non-governmental organizations deserved support.

7. Internal conflicts often involved tension and strife between ethnic and religious minorities, and they all too often led, as in the Horn of Africa, to population displacements. The human rights situation as a whole would depend on how the international community dealt with the root causes of those critical issues, inter alia through its support for national and regional efforts. As stated by the Secretary-General in his report to the General Assembly at its forty-fifth session, observance of human rights was part of the fabric of society in the same way as conflict resolution and the promotion of development, and every effort should be made to guarantee their realization. That was the challenge confronting not only the Commission and the World Conference on Human Rights planned for 1993, but all human beings at all times.

VIOLATIONS OF HUMAN RIGHTS IN SOUTHERN AFRICA: REPORT OF THE AD HOC WORKING GROUP OF EXPERTS (agenda item 5) (continued) (E/CN.4/1991/9 and 10; A/45/615)

THE ADVERSE CONSEQUENCES FOR THE ENJOYMENT OF HUMAN RIGHTS OF POLITICAL, MILITARY, ECONOMIC AND OTHER FORMS OF ASSISTANCE GIVEN TO THE COLONIAL AND RACIST REGIME IN SOUTHERN AFRICA (agenda item 6) (continued) (E/CN.4/Sub.2/1990/13 and Add.1)

IMPLEMENTATION OF THE INTERNATIONAL CONVENTION ON THE SUPPRESSION AND PUNISHMENT OF THE CRIME OF APARTHEID (agenda item 15) (continued) (E/CN.4/1991/40 and Add.1 and 2, 41 and 42; A/S/45/90)

IMPLEMENTATION OF THE PROGRAMME OF ACTION FOR THE SECOND DECADE TO COMBAT RACISM AND RACIAL DISCRIMINATION (agenda item 16) (continued) (E/CN.4/1991/43 and 45)

8. Mr. ALEX (Observer for Luxembourg) said that he was addressing agenda item 5 on behalf of the European Community and its member States.

9. The European Community was pleased that, since the Commission's previous session, Namibia had finally regained its sovereignty and independence and taken its rightful place within the United Nations. With regard to South Africa, it had noted with great satisfaction the significant changes that had taken place in that country during 1990, beginning with the release of Nelson Mandela and other political prisoners, and followed by the legalizing of political organizations and the lifting of the state of emergency, the authorizing of peaceful demonstrations and the announcement of a moratorium on executions. The South African Government's new attitude had been confirmed by President De Klerk's announcement, on 1 February 1991, of the early abolition of the main pillars of apartheid, the Group Areas Act, the Land Acts and the Population Registration Act. The European Community welcomed those positive developments in the situation, since its objective remained the utter abolition of the odious system of apartheid, which constituted an affront to human dignity and a violation of the Charter of the United Nations and the Universal Declaration of Human Rights.

10. The Twelve also welcomed the outcome of the talks held between the South African Government and ANC, which were likely to pave the way for negotiations leading to the drafting, with the participation of all the country's representative forces, of a new constitution. They also welcomed the agreement concluded on 29 January 1991 between Mr. Mandela and Chief Buthelezi, on behalf of ANC and the Inkatha party respectively, whose immediate implementation was imperative in order that discussion of South Africa's future could proceed in a peaceful atmosphere. In view of those developments, the Twelve hoped that the South African Government would immediately renounce all repressive measures against the black majority population in South Africa, fulfil its undertakings and finally abrogate, as it had announced, the restrictive provisions of the Internal Security Act. The Community's member States, for their part, would begin preparations with a view to relaxing the measures adopted in 1986, in accordance with the decision taken by the Council of Europe at its meeting held on 14 and 15 December 1990, as soon as the South African Government had undertaken to abolish the legal basis of apartheid. In the meantime, the European Community and its member States would continue to strive towards the complete and irreversible

dismantling of apartheid and the advent, within the framework of a new constitution, of a unified, non-racial and democratic South Africa which could resume its rightful place in the international community.

11. Mr. RETUREAU (World Federation of Trade Unions) said that the twelfth World Trade Union Congress, which had been attended by the representatives of over 400 million wage-earners from 132 countries in November 1990, had adopted a resolution on southern Africa in which it had, in particular, welcomed the release of Nelson Mandela and the many positive measures taken since that time by the South African Government, as well as Namibia's accession to independence, which constituted a victory for international law and the anti-colonial struggle as well as an encouragement for all anti-apartheid forces. However, South Africa had yet to observe Security Council resolution 432 (1978) and subsequent resolutions calling for the reintegration of the territories of Walvis Bay, and the Penguin Islands and other offshore islands to the territory of Namibia. The international community must also intensify its efforts to assist certain countries of the region, such as Mozambique and Angola, which had suffered repeated incursions from South Africa into their territory, to develop and to rebuild the destroyed infrastructure and help the displaced populations. And South Africa itself should, in view of its responsibilities, contribute to those efforts, by way of war reparations.

12. All the changes which had taken place were the fruit of sacrifices made by the South African people and workers in order to put an end to the apartheid régime. But the situation remained disquieting, because not all prisoners had been released and many exiles had not yet been able to return home. Moreover, the laws whose repeal had recently been announced by President De Klerk had left a deep mark on society, and considerable efforts would be required in order to eliminate racial discrimination not only from the law but from everyday behaviour and thinking. The violence provoked or inflamed by the State apparatus and its agents continued to claim victims, because the racist Power had fostered ethnic, tribal and political divisions throughout the period of its domination. Labour legislation was still backward and repressive, many trade union actions undertaken in 1990 had been violently repressed, and agricultural labourers and domestic employees lived in conditions approaching slavery. The transnational corporations which had provided the apartheid régime with economic assistance continued to plunder the country's resources and exploit the workers. Moreover, the announcement that citizens' racial origins would be recorded during the population census was bound to be disquieting.

13. The World Federation of Trade Unions hoped that the agreement between the leaders of the various African parties would put an end to the violence which had claimed so many victims in the townships during the latter months of 1990. The most essential outstanding matter, however, was the recognition, for the entire population, of all the civil and political, economic, social and cultural rights set forth in international human rights instruments. The dismantling of apartheid also called for the elimination of the cultural and social legacies of racial discrimination in all spheres of human activity, by means of specific policies aimed at restoring de jure and de facto equality among all persons. It also meant the dismantling of the bantustans and a thorough reform of agrarian structures and the land ownership system. Until those essential political and social changes had been initiated, equality of

rights had become a reality, all prisoners had been released and all exiles enabled to return home without fear, the international community must continue to assist the forces struggling against apartheid and maintain economic and political sanctions against South Africa.

14. The World Federation of Trade Unions would go on providing its assistance to the South African trade unions in their united action against racial discrimination and to promote respect for workers' rights, and it would continue to call for the real and complete elimination of an odious political system which had permanently stained the history of the twentieth century.

15. Mr. LITTMAN (World Union for Progressive Judaism) said that, in paragraph 16 of resolution 1990/13 adopted at its previous session, the Commission had requested the Secretary-General to organize in 1990 a meeting of representatives of national institutions and organizations promoting tolerance and harmony and combating racism and racial discrimination with a view to exchanging experience on the promotion of such objectives. Nowhere was it recognized, however, that tolerance and harmony were not the only products distilled at the United Nations, and it was regrettable that so much venom had been injected into international relations since the Organization's foundation.

16. When, on 10 November 1975, at the General Assembly's thirtieth session, the "automatic majority" had had resolution 3379 (XXX) adopted, neither the 72 Member States - not one of them a democracy - which had voted in favour of it, nor the 32 others which had abstained from that heinous act of racial and religious discrimination were likely to have been aware of the ironic coincidence that had certainly been in the minds of those representatives of the 35 Member States - virtually all of them representing countries with a truly democratic system - which had voted against that shameful resolution. That day had been, in fact, the thirty-seventh anniversary of the Kristallnacht (9-10 November 1938), which remained in memory as a symbol of the persecution of the Jews by the Nazis.

17. He wondered whether the Commission had the slightest idea of the poison subsequently distilled by resolution 3379 (XXX), in which the General Assembly had decided that zionism was a form of racism and racial discrimination. He cited but two examples. In 1985, General Mustafa Tlass, who for 20 years had been the Defence Minister of the Syrian Arab Republic, had published a book entitled "The matzah (unleavened bread) of Zion". In it, he had tried to revive libellous rumours that had been spread in Damascus in 1840, which the Ottoman Sultan and Caliph, Abdul Mejid, had condemned in a firman, that had also condemned the renewed violence to which the Jews had been subjected. General Tlass had stated in the introduction to his book, published in 1985: "The Jew can ... kill you and take your blood in order to make his Zionist bread ... I hope that I have done my duty in presenting the practices of the enemy of our historic nation. May Allah aid this project" (Le Matin, Paris, 19 August 1986). On hearing of the protests against that statement during a visit he had made to Paris to facilitate his receiving a doctorate at the Sorbonne for a thesis allegedly written by him on the Soviet Marshal Georgi Zhukov, Mustafa Tlass had declared: "It's a false trial ... but this campaign has been useful, and since publicity has been made for this book, I will have it translated into all the spoken languages." (Le Monde, Paris, 14 August 1986). The other case concerned the Prime Minister of Malaysia, who, at Harare in 1986, had said that the Jews were monsters, in a

statement which no other member of the Movement of Non-Aligned Countries had gainsaid, and which had perhaps prompted Palestinian terrorists to massacre 22 worshippers, mainly elderly, in an Istanbul synagogue. Ten months later the Prime Minister, oblivious to what had taken place at Istanbul, had repeated his calumny during an official visit to the United Kingdom, with no rebuke from anyone. Those were but two examples, among many, of the tragic effects of an anti-Semitism endorsed by the United Nations in its wicked amalgamation of zionism with racism in 1975.

18. Almost everywhere in the world, including certain schools and universities, reference was currently being made to resolution 3379 (XXX) as "proof" that zionism was a form of racism. There was no lack of examples of the harassment carried out in that spirit, which had worsened because of the resurgence, in Europe and elsewhere, of racial intolerance and moral degradation in general.

19. It was surely scandalous that the United Nations had been an accomplice, for the past 15 years, to acts of hatred and intolerance and to crimes carried out against Jews. The Organization bore a terrible responsibility, the more so since some of the current century's greatest men and women had been convinced Zionists, whilst contributing greatly to the creation and development of the United Nations and its ideals: Henri Dunant, Albert Einstein, Winston Churchill, René Cassin, Eleanor Roosevelt and Andrei Sakharov, to mention no more. René Cassin, a secular Jew, had seen in the State of Israel the realization of an ideal which might be a model solution for other minorities. As far back as 1947 he had said that the Jews must have a spine, a State of their own.

20. It was high time for reason and courage to prevail, and for the representatives of States boldly to denounce the monstrous resolution 3379 (XXX). The Minister for Foreign Affairs of the Republic of Hungary had opened the way, on 3 October 1990, by stating, in regard to the Arab-Israel conflict, that the factors which impeded mutual understanding should be removed, and that General Assembly resolution 3379 (XXX) was one of them.

21. Mr. BRODY (International Commission of Jurists) said that in August 1990 his organization had sent a mission to inquire into the violence in Natal, South Africa. During the past four years, over 4,000 people had been killed and 50,000 others driven from their homes. The members of the mission had met with South African officials, from the Government and from the security forces, as well as with leaders of the African National Congress (ANC) and the Inkatha movement, some of whose members had been at the origin of the outbreak of violence in Natal.

22. The report prepared by ICJ's delegates - a document which was available - clearly established the responsibility of the police and security forces in the aggravation of the violence perpetrated by the partisans of the rival communities in Natal, in particular because of their passive support for the armed militia of the Inkatha. The ICJ delegates had therefore called on the South African authorities to strengthen the security measures in the ghettos by increasing the number of law enforcement personnel, banning the carrying of weapons at political meetings, lifting the state of emergency in the province and prosecuting well-known criminals still at large. The ICJ emissaries had

also called for a peace initiative between the leaders of the respective movements involved, Mr. Mandela and Mr. Buthelezi, and for the strengthening of international monitoring of the evolving situation in South Africa.

23. Happily, recent events in South Africa gave grounds for some optimism about the future of Natal. The state of emergency had been lifted, and Mr. Mandela and Mr. Buthelezi had met on 29 January, thus choosing the path of wisdom and moderation.

24. Mention should also be made of the measures announced by the South African Government in the domain of inter-race relations, since they could mark the end of the odious régime of apartheid. Noteworthy among those measures were the convening of a multi-party conference and the non-discriminatory participation of the various populations in the running of public affairs, education and the economy. Those measures were conditional upon the abolition of the discriminatory laws in force, and three of those had already been mentioned by President De Klerk: the Land Acts of 1913 and 1936, the Group Areas Act of 1966 and the Development of Black Communities Act of 1984. In the same vein, ICJ fervently hoped that the law which could be considered the legal framework of apartheid, the Population Registration Act of 1950, would soon be but a bad memory.

25. ICJ also welcomed the reforms envisaged in the judicial branch, where the independence of judges and lawyers remained an indispensable condition of the equality of citizens before the law and the abolition of the old order. It must be borne in mind that the steps taken would remain limited in scope in the absence of true democratization of political life.

26. The members of ICJ would not let themselves give way to blind optimism, since they were well aware that the steps announced would be valid only if accompanied by efficient complementary measures, including a redistribution of land, 87 per cent of which was still in the hands of white owners. The international community, therefore, must not relax its vigilance or reduce the pressure which had begun to bear fruit.

27. Mr. WAREHAM (International Association against Torture) remarked that he was addressing the Commission during the Second Decade to Combat Racism and Racial Discrimination. A number of speakers had already pointed to one-sidedness in the implementation of United Nations principles - in itself a manifestation of racism. Whereas only the most egregious human rights violations committed by Western countries were highlighted, and then dealt with in a "reasonable" way, all violations, regardless of degree of severity, for which third world Governments were responsible were publicized and attacked. The willingness of many to allow time for sanctions to take effect in the case of South Africa contrasted sharply with the impatience over sanctions that had led to the declaration of war against Iraq in the Gulf - a United Nations-sanctioned and United States-controlled war. Once again there were real grounds to speak of double standards.

28. Despite the gravity of the human rights violations perpetrated in South Africa, it had taken almost 30 years for the International Convention on the Suppression and Punishment of the Crime of Apartheid to enter into force. Neither the United Kingdom nor the United States, which derived the most direct benefit from racism and had been the progenitors of the apartheid

régime, had yet ratified the Convention. The situation in other countries seemed to pale in comparison with the transgressions in South Africa; but it was about one of those other countries that he currently wished to speak.

29. The report of the Special Rapporteur, Mr. Eide, on the results achieved and the obstacles encountered during the First Decade for Action to Combat Racism and Racial Discrimination contained a sub-category dealing with situations originating in slavery - namely with the living conditions of the descendants of Africans in the Americas. Mr. Eide concluded that, although political rights for blacks had been largely obtained, equality in the social and economic fields was still a long way off. In other words, the situation was not ideal but could be gradually "worked out" - a view with which the United States Government itself would probably concur. That approach was doubtless what enabled the United States to escape the scrutiny visited upon Iraq, Cuba, Iran, South Africa or China. It had to be asked why, in 1991, no one was questioning the fact that two decades of combating racism had resulted in an increase of racism in the country held up as the bastion of democracy and human rights, and why the fate of 50 million Africans in the United States was not a matter for investigation in the Commission.

30. With further reference to Mr. Eide's thesis, blacks' participation in the electoral process in the United States was low and ever-decreasing. Their civil and political rights were under attack by the very courts and legislatures that had so reluctantly granted them. There could be no political equality while racism was latent in the economic and social spheres. The same profit motive that had given rise to the slave trade was what currently fuelled the ideology and practice of racism. Racism was not a deviation by a few evil men but a system absolutely necessary to maintain the maximum benefit for whites. The number of black mayors had indeed increased, but that could not change the conditions of black people as a whole. The United States Government had long been successful in avoiding accusations of racism. At neither of the two World Conferences to Combat Racism and Racial Discrimination (1978, 1983), or at the 1988 Global Consultation on Racism and Racial Discrimination, had the United States been a focus of inquiry in that sphere.

31. For that reason, the International Association against Torture (IAAT) believed that more attention must be given to the situation of racism in the countries of the North, whose military objectives elsewhere were based on racist principles.

32. Racism expressed itself in a wide variety of guises. In a series of articles on urban decay, a New York Times journalist had concluded that two words, homeless and underclass, had become central to the discussion of United States cities - thus suggesting that there was a second United States, a nation within a nation, whose living and health conditions, and degree of social mobility, evoked the third world. By way of example, nearly 50 per cent of black children lived in poverty, the poverty rate for blacks was three times that of whites, and the unemployment rate was practically as high. The infant mortality rate in the United States was higher than that of 18 other countries; the rate for blacks had worsened and was higher than that in Cuba, Bulgaria and Jamaica. Thousands of impoverished United States blacks died in the prime of life from ailments that could be treated by routine medical care.

33. With regard to justice, the United States had the world's highest known rate of incarceration, with 426 prisoners per 100,000 inhabitants, higher than South Africa and the Soviet Union. The imprisonment rate of black males in the United States was four times that in South Africa.

34. The response of individuals to racism varied, and the alienation racism could engender sometimes led the victims to serve the interests of their tormentors. Others, such as Harriet Tubman, Kwame Nkrumah, Gamal Nasser, Martin Luther King or Malcolm X, chose to resist.

35. As the Commission moved to consider measures to be implemented as part of the Second Decade to Combat Racism and Racial Discrimination, IAAT urged the members to pay particular attention to the patterns of racism and racial discrimination which resulted in the violation of the economic, social, cultural, political and civil rights of United States citizens of African descent. It urged the Commission to call for a world conference on racism and racial discrimination, with a particular focus on the policies and practices of the United States.

36. Mr. ROBEL (World Confederation of Labour), speaking on agenda items 5 and 6, recalled that one year previously, almost to the day, the President of South Africa had announced the release of Nelson Mandela, the legalizing of banned organizations, the release of all political prisoners, the lifting of restrictions imposed under the state of emergency and the removal of shackles on press freedom, as well as a moratorium on the execution of persons sentenced to death. The World Confederation of Labour had welcomed those developments. The joyful demonstrations, in the streets of Pretoria, with which black South Africans had welcomed those measures had unfortunately been dispersed, with the aid of tear gas, batons and police dogs. Many questions had been raised about such brutality, since that reaction by the police signified that there was still a long way to go to freedom and democracy, the more so since right wing hostility to the reforms had shown itself at once and the fundamental laws of apartheid remained in force. Doubts had remained about the efficacy of the measures announced.

37. One year after President De Klerk's statements, the report of the Ad Hoc Working Group of Experts (E/CN.4/1991/10) showed that the violence was continuing as before. The police continued to wield considerable powers, including the ability to arrest people without charge and detain them during long periods for interrogation. They intervened brutally in peaceful protest demonstrations against the "homelands" system and the high levels of taxation and rents. Young people and children were subjected to torture and ill-treatment, sometimes with fatal consequences, in police or detention centres. And detention without trial was still practised in South Africa.

38. The South African secret services were involved in the killing of those regarded as the régime's political enemies. The judiciary was utterly lacking in even-handedness, as was shown by the attitude of Judge Harms, the man in charge of an inquiry into "hit squads" (E/CN.4/1991/10, paras.110-125), who had ignored the damming evidence against them.

39. Many acts of violence had been committed with police complicity or with the participation of whites, and subsequently blamed on clashes among various elements of the black population. Such clashes did occur; they stemmed from the policy of apartheid and the existence of bantustans, which fostered rifts

among populations. But the hands which had armed Inkatha were those of the supporters of apartheid, who wished to divide and rule, and to show that the blacks could not agree among themselves and were unfit to govern the country.

40. With regard to the situation of workers, it was evident that discrimination and inequalities continued to exist in the field of employment. The Labour Amendment Act of 1988, which must be changed, restricted the right to strike, freedom of assembly, wage negotiation machinery and the formation and running of trade unions. Trade unionists were arrested and detained because of their activities in support of claims, including strikes. Agricultural workers were poorly paid and ill-treated, and not covered by labour legislation. The World Confederation of Labour paid tribute, in the current forum, to South African trade unions for the determination they had shown in their struggle for greater justice and democracy.

41. Despite the promises to release political prisoners, and the talks between the South African Government and the representatives of the African National Congress (ANC) which had led to the adoption of the Groote Schuur Minute and the Pretoria Minute, a number of political prisoners had not yet been freed, and the immunity from prosecution applicable pursuant to the provisions of the Indemnity Act of 1990 had not been fully implemented. It all showed that, in many respects, the situation had not changed, and that there were contradictions between the South African Government's fine declarations and reality. Apartheid was still in place, and the majority of the population was suffering under it. In those conditions, the maintenance of economic and political sanctions remained a necessary means of pressure.

42. President De Klerk's recent declaration concerning the abolition of the three racial laws which were the pillars of apartheid gave grounds for hope that a start to the dismantling of the racist régime was about to be seen. The question was whether the repeal proposal would be adopted by the Parliament; the Conservative Party, right-wing and neo-Nazi movements and the white farmers were solidly opposed to it and would not give in without a fight. Moreover, the hypocritical policy of the Powers which had gone on providing the Pretoria régime with economic, financial and military assistance and were already prepared to call for the lifting of sanctions since President De Klerk's statement was an obstacle to human rights in South Africa.

43. The World Confederation of Labour thought that to make statements and change laws was not enough. All necessary practical measures should be taken in order that men and women were no longer classified according to their colour or prevented from living where they wished; the bantustans must be abolished and fertile land allotted to peoples exploited for too long. Those objectives could be achieved only through the establishment of a true democracy, involving the election of a constituent assembly through non-racial balloting, and the participation of blacks in the Government.

44. The World Confederation of Labour, for its part, would request the organizations affiliated to it to contribute to the application of sanctions. It would provide assistance to South African workers and strengthen its links with trade unions. Such collaboration had, indeed, already been enhanced in the spheres of education and training, following a WCL mission to South Africa from 9 to 31 January 1991. Lastly, WCL requested that the mandate of the Ad Hoc Working Group of Experts should be renewed so that it could follow the

development of the situation in South Africa, that sanctions should be maintained and that Governments should discontinue their assistance to South Africa until apartheid had vanished.

45. Mr. GROSSE (International Federation of Human Rights) said that he wished to make an observation relating to agenda item 16. At the previous session of the Economic and Social Council's Committee on Non-Governmental Organizations, an NGO called Human Rights Watch - a multicultural organization based in New York and active on all continents since 1978 - had been subjected, during discussion relating to its application for consultative status, to certain remarks which the International Federation of Human Rights considered inadmissible. Several witnesses had confirmed that the Ambassador of Iraq, after asking about the religious and political background of the Human Rights Watch team, had accused that organization of being hostile, on religious grounds, to certain Arab States, and had added that it was composed of a team "of a specific nature" which everyone was aware of. It was known that two members of that organization's office were Jews, as was its president.

46. The International Federation of Human Rights was indignant that such discriminatory and racist arguments could be put forward in a United Nations decision-making body, at the very time when the Security Council was currently striving for the implementation of its resolutions and respect for law. It keenly regretted such inconsistency, which public opinion was liable not to comprehend.

47. Mr. Amoo-Gottfried (Ghana) took the Chair.

QUESTION OF THE REALIZATION IN ALL COUNTRIES OF THE ECONOMIC, SOCIAL AND CULTURAL RIGHTS CONTAINED IN THE UNIVERSAL DECLARATION OF HUMAN RIGHTS AND IN THE INTERNATIONAL COVENANT ON ECONOMIC, SOCIAL AND CULTURAL RIGHTS, AND STUDY OF SPECIAL PROBLEMS WHICH THE DEVELOPING COUNTRIES FACE IN THEIR EFFORTS TO ACHIEVE THESE HUMAN RIGHTS, INCLUDING:

(a) PROBLEMS RELATED TO THE RIGHT TO ENJOY AN ADEQUATE STANDARD OF LIVING; FOREIGN DEBT, ECONOMIC ADJUSTMENT POLICIES AND THEIR EFFECTS ON THE FULL ENJOYMENT OF HUMAN RIGHTS AND, IN PARTICULAR, ON THE IMPLEMENTATION OF THE DECLARATION ON THE RIGHT TO DEVELOPMENT;

(b) POPULAR PARTICIPATION IN ITS VARIOUS FORMS AS AN IMPORTANT FACTOR IN DEVELOPMENT AND IN THE FULL REALIZATION OF ALL HUMAN RIGHTS (agenda item 7) (continued) (E/CN.4/1991/11; E/CN.4/1991/NGO/6, 7 and 12; E/CN.4/Sub.2/1990/19)

QUESTION OF THE REALIZATION OF THE RIGHT TO DEVELOPMENT (agenda item 8) (continued) (E/CN.4/1991/12; E/CN.4/1991/NGO/6, 7 and 10; E/CN.4/1990/9/Rev.1)

STATUS OF THE INTERNATIONAL COVENANTS ON HUMAN RIGHTS (agenda item 17) (continued) (E/C.12/1988/1; CCPR/C/2/Rev.2; A/45/403; A/RES/45/135)

EFFECTIVE FUNCTIONING OF BODIES ESTABLISHED PURSUANT TO UNITED NATIONS HUMAN RIGHTS INSTRUMENTS (agenda item 18) (continued) (E/CN.4/1991/46; A/45/636; A/RES/45/85 and 88)

48. Mr. MARTENSON (Under-Secretary-General for Human Rights) introduced agenda items 7 and 8 which dealt, respectively, with the effective enjoyment of economic, social and cultural rights (particularly the right to an adequate

standard of living and popular participation) and the right to development. Over the past few years, and largely owing to the Commission on Human Rights, the international community had become aware of the interdependence of all human rights: development was a basic element in the effective enjoyment of human rights, just as the enjoyment of human rights was a pre-condition for successful and sustainable development. Those concerned with the betterment of the human condition must ensure that the resources essential for development were within reach of all and that human rights were the corner-stone of the development process.

49. In that context, he welcomed the recent inclusion of human rights in the Programme of Action of the Second United Nations Conference on the Least Developed Countries, the resolutions adopted by the eighteenth special session of the General Assembly on international economic co-operation, and the International Development Strategy for the Fourth United Nations Development Decade. Much remained to be done if people's enjoyment of economic, social and cultural rights was to be improved. In that connection, the Commission had before it the report of the Special Rapporteur of the Sub-Commission on Prevention of Discrimination and Protection of Minorities, Mr. Danilo Türk (E/CN.4/Sub.2/1990/19), who had been requested to study the question of the effective enjoyment of those rights. He also wished to draw the Commission's attention to the work of the Committee on Economic, Social and Cultural Rights.

50. Popular participation was now recognized as being essential for meaningful and sustainable development, just as it was for the enjoyment of other aspects of human rights. That fact had been reaffirmed by the Economic Commission for Africa with its adoption of the African Charter for Popular Participation in Development and Transformation and by the Global Consultation on the Realization of the Right to Development as a Human Right, held in Geneva in January 1990. Earlier, in 1986, the General Assembly had adopted the Declaration on the Right to Development, based on work done by the Commission. Thanks to the Working Group of Governmental Experts on the Right to Development, chaired by Mr. Sene (Senegal), that right was now more clearly understood. In the Declaration, development was described as a comprehensive economic, social, cultural and political process, which aimed at the constant improvement of the well-being of the entire population and of all individuals on the basis of their active, free and meaningful participation in development and in the fair distribution of benefits resulting therefrom. The Declaration had provided a framework for relating economic and social progress to respect for human rights.

51. Since the adoption of the Declaration, the Commission had studied the question of the realization of the right to development. With that aim in mind, the Global Consultation on the Realization of the Right to Development as a Human Right had been held in January 1990, attended by over 25 experts, many of them from developing countries, 10 United Nations bodies or agencies, 2 regional organizations, 40 non-governmental organizations and 53 States represented by observers. The Consultation had produced conclusions and recommendations for action by States, international action and action by non-governmental organizations. Particular stress had been placed on democracy, which had been considered essential, at all levels and in all areas, if true development was to be achieved. Participation, too, had been deemed to be of central importance, both as a means to an end and as an end in itself. The Commission had before it the report of the Global Consultation (E/CN.4/1990/9/Rev.1).

52. The Committee on Economic, Social and Cultural Rights had also given consideration to those matters, and it had adopted a general comment on 1 February 1990 designed to increase the attention paid to efforts to promote economic, social and cultural rights within the framework of international development co-operation activities undertaken by, or with the assistance of, the United Nations and its agencies. In particular, the Committee had stated two general principles. The first was that economic, social and cultural rights, on the one hand, and civil and political rights, on the other hand, were indivisible and interdependent. The second stated that development co-operation activities did not automatically contribute to the promotion of respect for economic, social and cultural rights. In that regard, the Committee had proposed a number of specific measures.

53. The conclusions and recommendations of the Global Consultation had been brought to the attention of the various United Nations bodies dealing with development issues, particularly the Ad Hoc Committee of the Whole for the Preparation of the International Development Strategy for the Fourth United Nations Development Decade and the Task Force of the Administrative Committee on Co-ordination (ACC) on long-term development objectives.

54. The issue now was to choose the operational mechanisms which would promote human rights in the development process. He had already had the opportunity to make some suggestions on that point to the Ad Hoc Committee of the Whole and the ACC Task Force, and he wished to bring two of them to the Commission's attention. Firstly, a dialogue might be established within the United Nations system on ways in which human rights elements could be integrated into the formulation and evaluation of development projects; the United Nations Development Programme (UNDP) and the Centre for Human Rights had already begun work in that area. The Centre for Human Rights could organize an inter-agency consultation during the year to study the issue. Secondly, ways could be sought of strengthening the dialogue on human rights and development issues with non-governmental organizations, particularly in developing countries. To that end, an exploratory meeting might be organized with representatives of non-governmental organizations.

55. Turning to agenda item 17, on the status of the International Covenants on Human Rights, he recalled that, alongside the Universal Declaration itself, the two Covenants and the Optional Protocol to the International Covenant on Civil and Political Rights formed the centrepiece of the international code of human rights built up by the United Nations since 1948. Besides that code of international standards for the protection of human rights, there was a network of expert and independent committees, which critically examined the way in which States were fulfilling their international commitments in the field of human rights, encouraged respect for those rights and received and considered complaints from individuals. For that system to be effective, the first objective was to ensure universal ratification of the two Covenants, so that no human being should be excluded from the basic protection which they proclaimed and so that every country could contribute to the development of the protection system.

56. Since the forty-sixth session of the Commission, Burundi, the Republic of Korea and Malta had ratified the two Covenants, which brought the number of States parties to the International Covenant on Economic, Social and Cultural Rights to 97, and the number of States which had ratified the International Covenant on Civil and Political Rights to 92. The number of States parties to

the Optional Protocol had grown from 49 to 51 in the past year, the two new States parties being Malta and the Republic of Korea. As for the second Optional Protocol, aiming at the abolition of the death penalty, which would enter into force three months after the date of deposit of the tenth instrument of ratification or accession, four States - Australia, New Zealand, Portugal and Sweden - had ratified or acceded to it. Finally, the number of States which had made the declaration provided for in article 41 of the International Covenant on Civil and Political Rights had grown to 30, now that Chile, Malta, Poland and the Republic of Korea had made the declaration.

57. The Human Rights Committee (International Covenant on Civil and Political Rights), during its three sessions in the past year, had considered a total of 16 State party reports, had received and considered a growing number of communications under the Optional Protocol and had adopted final views in 12 of the cases before it. In order to obtain more systematic information about the measures taken by States parties in response to the views it had adopted after considering their reports, the Committee, at its thirty-ninth session, had amended its guidelines for the submission of reports, requesting States parties to inform it about such measures. The Committee had also decided to appoint a Special Rapporteur from among its members to investigate the action taken to give effect to its views.

58. In order to improve its methods of work further, the Committee had requested some members of the working group established under article 40 of the Covenant to prepare a list of issues to be discussed during the consideration of States parties' reports. Finally, it had invited non-governmental organizations which wished to contribute information relevant to the consideration of individual States parties' reports to submit it to the secretariat well in advance of the Committee's sessions, so that it could be transmitted to the member concerned in good time. The Committee had also continued to work on other general comments on various provisions of the Covenant, and it had adopted a general comment on article 23 concerning the family.

59. The Committee on Economic, Social and Cultural Rights had held its fifth session from 26 November to 14 December 1990 and had considered seven reports, from six States parties, which brought to 56 the number of reports considered since the first session. It had adopted a new general comment, its third, which provided an interpretation of the nature of the obligations of States parties set forth in article 2, paragraph 1 of the Covenant.

60. Finally, he wished to draw the Commission's attention to operative paragraph 12 of Economic and Social Council resolution 1990/45, which invited the Commission, at its forty-seventh session, to consider requesting the Secretary-General to devote a seminar, under the United Nations programme of human rights activities for the biennium 1992-1993, for the discussion of appropriate benchmarks to measure achievements in the progressive realization of the rights recognized in the International Covenant on Economic, Social and Cultural Rights. In respect of such indicators, the Commission might wish to refer to the report of Mr. Danilo Türk on the realization of economic, social and cultural rights (E/CN.4/Sub.2/1990/19).

61. Agenda item 18 covered the effective functioning of bodies established pursuant to United Nations human rights instruments. On the question of improving the efficiency of the treaty monitoring bodies, he wished to inform the Commission that the consolidated guidelines for the initial part of State party reports had been approved by all the bodies concerned and by the third meeting of persons chairing the human rights treaty bodies, held in October 1990. The guidelines should considerably lighten the work-load of States which were parties to several international instruments, since they could fulfil their obligations concerning the first part of their reports by submitting the same basic document to the various bodies.

62. The detailed manual prepared by the Centre, in co-operation with the United Nations Institute for Training and Research (UNITAR), to help States with the preparation of their reports had also been completed and approved at the chairpersons' latest meeting. The periodicity of reports, which applied in the case of seven of the main human rights instruments, including the Convention on the Rights of the Child, had now been harmonized, with the interval between reports set at not less than four years and not more than five years.

63. With regard to the computerization of the work of the human rights treaty-monitoring bodies in relation to reporting, the Economic and Social Council had approved the Commission's recommendation that the annual recurrent cost of the computerized reporting system should, in future, be covered by the regular budget. In addition, the General Assembly had approved the recommendation of the Task Force on Computerization and had asked the Secretary-General to give high priority to establishing a data base which would improve the efficiency of the work of the treaty-monitoring bodies. United Nations Member States had been invited to make generous contributions to cover the initial cost of installing the system which, if all went well, should become operational in the next two years.

64. Finally, at their third meeting in October 1990, the persons chairing the human rights treaty bodies had adopted a number of important conclusions and recommendations concerning the rationalization and harmonization of the activities of the treaty bodies. The report of that meeting was before the Commission in document A/45/636.

65. Mr. RECHETOV (Union of Soviet Socialist Republics) welcomed the interest shown by many delegations in strengthening the system of international treaty obligations in the field of human rights.

66. The Universal Declaration of Human Rights, the International Covenants on Human Rights and the international conventions were more than just an enumeration of standards to be respected in the field of human rights; they also described the ways in which States should put those standards into practice. His delegation called upon those States which had not already done so to show their commitment to those universal standards by acceding to the international human rights instruments. Clearly, however, accession to the international instruments was only half the story; the principles proclaimed in those instruments must be incorporated into domestic legislation and their implementation guaranteed by effective institutional procedures.

67. There were some negative elements in the development of the system of co-operation relating to the international human rights treaties. Not all States scrupulously performed their obligations, which hampered the work of the treaty bodies and, in particular, increased the number of overdue reports or led to the cancelling, for financial reasons, of sessions of the Committee on the Elimination of Racial Discrimination. The international community had shown its faith in the committee system by adopting specific measures at the Commission's previous session, on the basis of Mr. Alston's study, and at the third meeting of persons chairing the human rights treaty bodies, held at Geneva in October 1990. Incidentally, the situation concerning the computerization of the committees' work and the satisfaction of the Secretariat's needs left much to be desired. The committees and their members had not been idle. At its previous session, the Committee on the Elimination of Racial Discrimination had decided to co-operate in a practical manner with the Sub-Commission on Prevention of Discrimination and Protection of Minorities, and had stressed the need to enhance the status of the Committee's members as independent experts. A number of Committees were co-operating effectively with special rapporteurs. Such measures would allow the United Nations human rights bodies to meet the challenges which faced them.

68. International co-operation in the field of human rights, which was based on universally applicable human values, also had its practical side. For example, the Supreme Soviet of the USSR, in its legislative activity, took into account the observations and reflections made by the members of committees such as the Human Rights Committee, the Committee against Torture or the Committee on the Elimination of Racial Discrimination when they considered periodic reports submitted by the USSR.

69. He was happy to see that the "family of committees" was soon to welcome a new member, the Committee on the Rights of the Child; he was pleased that the Convention on the Rights of the Child had entered into force so quickly. However, it was essential to guard against euphoria and not to think that the adoption of conventions was sufficient to resolve human rights problems. The preparation and implementation of new legal norms must be accompanied by great vigilance and must take into account new needs, as well as prevailing conditions.

70. The USSR called for the consolidation and expansion of the political and legal base of co-operation in the field of human rights, as well as a strengthening of the efficiency of the existing committees. In the area of fundamental rights, no situation was ideal and no State was perfect. All States could do was to move closer to the ideal at which they aimed. By proceeding in a considered, fair and open way, the members of the international community would succeed in perfecting indispensable legal guarantees and creating the moral climate which was needed to transform humanity and enable a state of law to prevail.

71. The question of economic, social and cultural rights led inevitably to the key issue of the indivisible and interdependent nature of all categories of rights. The political and ideological polemic which had hitherto clouded the consideration of human rights issues was disappearing, hopefully forever. Today, it was an accepted fact that all human rights were indivisible, and they were recognized as such in a number of United Nations resolutions which had been adopted by consensus. Attempts to create a hierarchy of human rights had met with little success; they had, for the most part, been political in

their aims. A low level of economic development should not be used as a pretext for postponing the enjoyment of civil and political rights "better times"; on the other hand, the relatively high level of enjoyment of civil and political rights in economically developed societies could not justify failure to act on acute social problems such as unemployment, homelessness, poverty and other situations which affected the underprivileged sectors of the population.

72. It was particularly important that not only the laws of a country as a whole, but also those of the members of a federation, should comply with international standards. In view of the sometimes tragic experiences of the USSR, one could say that nothing could justify the failure of some members of the federation to respect, in their legislation, internationally recognized standards such as the rights to life, freedom of opinion, citizenship, equal protection before the law and equality in voting rights. With few exceptions, international bodies and the United Nations as a whole had not yet thoroughly analysed that problem, which affected the rights and social status of several million people. In that connection, he could only express his alarm at the prejudice evident in the statements made by certain countries before the Commission about the highly complex situation which had arisen during the democratization process in the USSR. It was undeniable that, in some places, an illegal situation had arisen, which had led to clashes between various population groups and recourse to acts of violence stemming from national and ethnic characteristics.

73. He wondered how his country's critics could fail to see that, in the Baltic states for example, millions of people were considered second-class citizens. One of the most dangerous and illegal moves had been the adoption of a whole range of standards which were contrary to basic and internationally recognized human rights. In both legislation and practice, there was discrimination against the non-indigenous population; he was thinking principally of the laws on language, citizenship, eligibility to vote based on length of residence, ownership, the death penalty and crimes of opinion, which were sources of tension and instability in the Baltic countries. Action by certain paramilitary groups and illegal possession of weapons were becoming more widespread, and were not punished. Journalists were subjected to acts of violence. Even worse, there had been bloodshed, which the USSR sincerely regretted. At present, the Office of the Procurator of the republics and the union was inquiring into the tragic events which had taken place. Those responsible must be brought to justice and duly punished.

74. The problems faced by the Baltic countries must be resolved exclusively by political means. The solution to the problem must be sought in dialogue, compromise and free expression of the will of the people in accordance with existing procedures.

75. The international community must show moderation in view of the current situation. Impassioned reactions based on biased information would only fan the flames, encourage destabilization and sap the confidence which had caused international relations to improve recently. International organizations must play a positive role and help the situation to move towards progress and democracy.

76. In conclusion, he expressed the hope that the Commission, at its current session, would contribute to the settlement of problems which, in the past, had led to confrontation, endless academic discussion and pointless accusations and counter-accusations. The way to solve those problems was to bear in mind the interests and particular characteristics of every group of States and, of course, to respect international obligations.

77. Mr. AL-KADHI (Iraq), speaking in exercise of the right of reply, objected strongly to the remarks made by Mr. Stoltenberg, Minister for Foreign Affairs of Norway. Contrary to what one might expect, given Norway's position on the Gulf situation, Mr. Stoltenberg had failed to show objectivity and had expressed himself in terms similar to those used by the representatives of the States which were committing barbarous acts of aggression against Iraq.

78. Mr. Stoltenberg had seemingly forgotten the fate of the Palestinian people and that of the Iraqi women, children and old people who, to date, had suffered the consequences of 600,000 tonnes of bombs.

79. Iraq had had enough of the "lectures" which the West wanted to give it. In fact, the Western countries were now shown up in their true colours; they had displayed very clearly their contempt for the rights of the peoples of the third world and were murdering democracy with their own hand. The fact that the peoples of Europe and America were demonstrating to show their sympathy for the Iraqi people was clear proof that Iraq's cause was just.

The meeting rose at 1 p.m.